

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

ALVIN HOLDER,

Plaintiff,

v.

C.A. No. 20-10656

BOSTON POLICE DEPARTMENT,
CITY OF BOSTON, WILLIAM GROSS, in his
official capacity as the COMMISSIONER OF
THE BOSTON POLICE DEPARTMENT,
WILLIAM EVANS and EDWARD DAVIS, each
in his official capacity as former
COMMISSIONER OF THE BOSTON POLICE
DEPARTMENT, NICOLE TAUB, individually
and in her official capacity as former senior staff
attorney for the BOSTON POLICE
DEPARTMENT, KENNETH FONG,
individually and in his official capacity as THE
BOSTON POLICE DEPARTMENT CAPTAIN,
and SHAWN WILLIAMS, in his official capacity
as DIRECTOR OF PUBLIC RECORDS AND
RECORDS ACCESS OFFICE for the CITY OF
BOSTON AND THE BOSTON POLICE
DEPARTMENT,

Defendants.

NOTICE OF REMOVAL

Pursuant to 28 U.S.C.A. §§1331, 1441 and 1446, defendant City of Boston (the “City”) files this Notice of Removal of the above-captioned case from the Superior Court Department of the Trial Court of the Commonwealth of Massachusetts, Suffolk County, to the United States District Court for the District of Massachusetts. In support of this notice of removal, the City states as follows:

CASE BACKGROUND AND GROUNDS FOR REMOVAL

1. On February 10, 2020, the plaintiffs commenced a civil action in the Suffolk Superior Court against the City, among other defendants, styled *Holder v. City of Boston, et al.*, C.A. No. 20-00380F (the “State Court Action”). Plaintiff’s four hundred and eleven (411) paragraph complaint asserts fifteen (15) counts against the defendants, including thirteen (13) against the City and/or the Boston Police Department (“BPD”)¹. The counts against the City include the first three counts, which allege violations of three federal statutes: 42 U.S.C.A. §1983, 42 U.S.C.A. §1981(a) and 42 U.S.C.A. §1985. Plaintiff also asserts a series of state statutory claims (under M.G.L. c. 149, §185 M.G.L. c. 66, §10, M.G.L. c. 149, §52C, M.G.L. c. 150C) and common law tort (civil conversion, fraud) and equitable claims (declaratory judgment, injunctive relief) against the City.

2. As required by 28 U.S.C.A. §1446(a), attached as **Exhibit A** are copies of all process, pleadings and orders served upon the City in the State Court Action.

3. The Notice of Removal is timely. Service of Plaintiff’s complaint was made on the City on March 4, 2020. This Notice of Removal was filed prior to the expiration of 30 days from the date of service. *See* 28 U.S.C.A. §1446(b)(1); *Murphy Bros., Inc. v. Michetti Pipe Stringing, Inc.*, 526 U.S. 344 (1999).

4. This Court has federal question subject matter jurisdiction over this matter pursuant to 28 U.S.C. § 1331 as the civil action arises under three separate sections of Chapter 42 of the United States Code.

¹ The Boston Police Department is not a separate and distinct legal entity, but rather a department of the City.

5. Venue is proper in this Court pursuant to 28 U.S.C.A. §1441(a) because the State Court Action is pending in Massachusetts.

6. To the extent that there are any true defendants other than the City² in this action, all such parties have consented, as required by 28 U.S.C.A. 1446(b)(2)(A), to the removal of this action to the United States District Court for the District of Massachusetts.

7. This Notice of Removal has been served on Plaintiff's counsel. A Notice of Filing of Notice of Removal (attached as **Exhibit B**) will be filed in the Suffolk Superior Court upon filing of this Notice of Removal.

WHEREFORE, the City hereby removes the above-captioned case from the Superior Court Department of the Trial Court for the Commonwealth of Massachusetts (Suffolk) and requests that further proceedings be conducted in this Court as provided by law.

Date: April 2, 2020

Respectfully submitted,
CITY OF BOSTON,
By its attorneys:

Eugene F. O'Flaherty
Corporation Counsel

/s/ Edward F. Whitesell, Jr.

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² Claims asserted against the individual defendants "in an official capacity" are claims against the City. "[A]n official-capacity suit is, in all respects other than name, to be treated as a suit against the entity." *Kentucky v. Graham*, 473 U.S. 159, 165-66 (1985).

Certificate of Service

I, Edward F. Whitesell, Jr., hereby certify that on April 2, 2020, a true and correct copy of this document filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing and that paper copies will be sent to those indicated as non-registered participants and counsel for the plaintiff, Julie A. Halaby, Esq. and Jon A. Halaby, Esq., Halaby Law Group, P.C., 14 Main Street, Hingham, MA 02043, who have not yet made an appearance before this Court.

/s/ Edward F. Whitesell, Jr.
Edward F. Whitesell, Jr.